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NOTICE OF ALLOWANCE AND FEE(S) DUE

22801 7590 07/10/2009

LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

EXAMINER

BRUCKART, BENJAMIN R

ART UNIT

PAPER NUMBER

2446

DATE MAILED: 07/10/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,401	04/20/2004	Charles Reeves Little II	MS1-2006US	4534

TITLE OF INVENTION: PRESENCE-BASED SEAMLESS MESSAGING

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	10/13/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

22801 7590 07/19/2009

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Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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10/828,401 04/20/2004 Charles Reeves Little II MS1-2006/US 4534

TITLE OF INVENTION: PRESENCE-BASED SEAMLESS MESSAGING

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nonprovisional	NO	\$1510	\$300	\$0	\$1810	10/13/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
BRUCKART, BENJAMIN R	2446	709-204000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2
 3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
 Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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EXAMINER

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Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 788 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 788 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

10/828,401

Applicant(s)

LITTLE, CHARLES REEVES

Examiner

BENJAMIN R. BRUCKART

Art Unit

2446

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 3/31/09.
2. ☒ The allowed claim(s) is/are renumbered to 1-31.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview and email with Dominic Lindauer on 7/1/2009.

The application has been amended as follows:

In the claims:

1. (Currently amended) A presence-based seamless messaging method, comprising:

from within a computing environment executing on a processor and configured for sending a message via a user interface associated with a first communications medium, detecting a current live presence of a potential message recipient who can be reached via a second communications medium;

running contemporaneously multiple communications programs for accessing the first and second communications media to allow instantly sending a message via one of the communications programs;

transforming the user interface to include an option of using the second communications medium;

activating the second communications medium in response to the detecting;

displaying a one-click control option for transitioning message delivery and message composition to the second communications medium when the potential recipient is present to the second communications medium;

removing display of the one-click control option when the potential recipient becomes non-present to the second communication medium;

transferring automatically upon actuation of the one-click control option at least part of an unsent message from a message composition environment associated with the first communications medium to a message composition environment associated with the second communications medium when the first communications medium becomes unavailable; and

transferring automatically upon actuation of the one-click control option at least part of an unsent message from a message composition environment associated with the second communications medium to a message composition environment associated with the first communications medium when the second communications medium becomes unavailable.

2. (Canceled)

3. (Original) The method as recited in claim 1, further comprising transitioning to a user interface for the second communications medium in response to the detecting.
4. (Original) The method as recited in claim 1, further comprising transitioning to a message composition environment associated with the second communications medium in response to the detecting of the real-time presence.
5. (Canceled)
6. (Original) The method as recited in claim 1, further comprising offering a choice of sending the message to the potential recipient via the second communications medium.
7. (Original) The method as recited in claim 1, further comprising displaying a dynamic menu of message transfer options including an option to send the message via the second communications medium.
8. (Original) The method as recited in claim 7, wherein the number of message transfer options on the dynamic menu depends on the number of communications media to which a potential recipient is present.
9. (Canceled)
10. (Original) The method as recited in claim 1, wherein the detecting includes sensing presence of multiple potential recipients, each present to one or more communications media;
invoking multiple communications media in response to the detecting; and
sending the message to each of the multiple potential recipients via a communication medium to which a respective potential recipient is present.
11. (Currently amended) A presence-based seamless messaging system, comprising:

a computing device means comprising a processor means configured for detecting a current live presence of a potential message recipient, prior to sending a message, who can be reached via a second communications medium from within an application program for using a first communications medium;

means associated with the computing device for using the second communications medium in response to detecting the presence of the potential recipient;

means associated with the computing device for changing a first user interface associated with the first communications medium to a second user interface associated with the second communications medium;

means associated with the computing device for sending a message via the second communications medium;

means associated with the computing device for displaying a single one-click button for selecting both means for composing a message and means for delivering the message according to the second communications medium if the potential recipient is present to the second communications medium;

means associated with the computing device for removing display of the single one-click button if the potential recipient is not present with regard to the second communications medium;

means associated with the computing device for transferring automatically upon actuation of the on-click button at least part of an unsent message from a message composition environment associated with the first communications medium to a message composition environment associated with the second communications medium when the first communications medium becomes unavailable; and

means associated with the computing device for transferring automatically upon actuation of the on-click button at least part of an unsent message from a message composition environment associated with the second communications medium to a message composition environment associated with the first communications medium when the second communications medium becomes unavailable.

12. (Previously Presented) The system as recited in claim 11, wherein the means associated with the computing device for changing a first user interface includes means for changing a first

message composition environment associated with the first communications medium to a second message composition environment associated with the second communications medium.

13. (Previously Presented) The system as recited in claim 11, further comprising means associated with the computing device for displaying a dynamic menu of message sending and reply options based on presence of potential recipients to communications media associated with the sending and reply options listed in the dynamic menu.

14. (Canceled)

15. (Previously Presented) The system as recited in claim 11, further comprising means associated with the computing device for transferring at least part of an unsent message to a communications medium for which a potential recipient is newly present.

16. (Previously Presented) The system as recited in claim 15, further comprising means associated with the computing device for transferring at least part of the unsent message to a message editor associated with the communications medium for which the potential recipient is newly present.

17. (Currently amended) A presence-based seamless messaging system, comprising:

a computing device comprising a processor;

a media transition engine configured to execute on the processor associated with the computing device, the media transition engine comprising:

media detector to determine communications media periodically available to a potential recipient of a message;

presence detector to sense a current live presence of the potential recipient, wherein the presence includes a current ability of the potential recipient to receive the message via one of the detected communications media including at least a first communications media and a second communications media;

media integrator to render available for immediate use each communications medium for which the potential recipient is present;

user interface transition engine to:

display a one-click control option and switch a current user interface from a first user interface for the first communications media to a second user interface associated with the second communications medium for which the potential recipient is present upon actuation of the one-click control option; and

remove the one-click control option when the potential recipient is not present in the second communications medium,

and wherein when the potential recipient becomes non-present or the second communications medium becomes unavailable during composition of the message, at least part of an unsent message is automatically transferred from the first user interface to the second user interface upon actuation of the one-click control button.

18. (Previously presented) The system as recited in claim 17, wherein the media integrator sends the message via a communications medium for which the potential recipient is present.

19. (Previously presented) The system as recited in claim 17, wherein the media detector uses one or more address book databases.

20. (Canceled)

21. (Canceled)

22. (Canceled)

23. (Canceled)

24. (Previously presented) The system as recited in claim 17, further comprising a menu controller to display and update a dynamic menu of communications media options.

25. (Previously presented) The system as recited in claim 24, wherein the dynamic menu offers a selection of communications media by which a message can be composed and sent and for which the potential recipient is present.

26. (Previously presented) The system as recited in claim 24, wherein the dynamic menu offers an instant reply option for multiple potential recipients, wherein potential recipients present to instant messaging are initiated into a group chat, potential recipients present to communications media but not present to instant messaging are sent the message by a communications medium for which they are present, and potential recipients not present to any communications media are sent the message via email by default.

27. (Previously presented) The system as recited in claim 24, further comprising a single user-control button for initiating messaging via a medium for which the recipient is present, wherein the single user-control button appears in response to presence of the potential recipient and disappears in response to non-presence of the potential recipient.

28. (Previously Presented) A computer memory storage device containing instructions that are executable by a computer to perform actions comprising:

 during composition of a message to be sent using a first communications medium, detecting a real-time presence of a potential message recipient prior to sending the message who can be reached via a second communications medium;

 offering a choice via a one-click control option of using the second communications medium instead of the first communications medium; and

 removing the one-click control option when the potential message recipient becomes unavailable in the second communications medium, wherein when the potential message recipient becomes non-present in the second communications medium during message composition, automatically transferring at least a part of the unsent message into a message composition environment associated with the first communications medium upon actuation of the one-click option.

29. (Previously Presented) The computer memory storage device as recited in claim 28, further comprising instructions to change to a user interface for the second communications medium in response to selecting the second communications medium instead of the first communications medium.

30. (Previously Presented) The computer memory storage device as recited in claim 29, further comprising instructions to transfer at least part of an unsent message to a message composition area of the user interface for the second communications medium.

31. (Previously Presented) The computer memory storage device as recited in claim 28, further comprising instructions to display a dynamic menu of communications media available for message delivery, wherein the potential message recipient is present to each medium in the dynamic menu.

32. (Previously Presented) The computer memory storage device as recited in claim 28, wherein an email environment offers a menu of alternate communications media for which the potential message recipient is present in real-time.

33. (Previously Presented) The computer memory storage device as recited in claim 32, wherein the email environment changes to a messaging environment of one of the alternate communications media in response to a user selecting one of the alternate communications media.

34. (Previously Presented) The computer memory storage device as recited in claim 32, wherein the email environment opens a messaging environment pane associated with one of the alternate communications media in response to a user selecting one of the alternate communications media.

35. (Currently amended) A presence-based seamless messaging system, comprising:

a computing device comprising a processor;

a recipient-controlled media transition engine configured to execute on the processor, including:

a media detector to dynamically determine communications media presently available to a recipient of a message including a first communication medium and a second communications medium, wherein presently available denotes that the recipient is currently present to the communications media;

a dynamic menu for the recipient to specify one of the communications media;

a one-click control option to be displayed when the recipient is presently available in the second communication medium and to be removed when the recipient becomes unavailable in the second communication medium, the one-click control option configured to use the second communications media instead of the first communications media; and wherein when potential recipient becomes non-present in the second communications medium during message composition, at least a part of the unsent message is configured to be automatically transferred into a message composition environment associated with the first communications medium upon actuation of the one-click control option; and

a media integrator to transfer a message from a sender to the recipient instantly via the specified communications medium;

36. (Previously presented) The system as recited in claim 35, wherein a user interface transition engine changes the sender's current message composing environment to a different message composing environment associated with the communications medium specified by the potential recipient.

37. (Previously presented) The system as recited in claim 35, wherein a user interface transition engine transfers at least part of an unsent message to the message composing environment associated with the communications medium specified by the potential recipient.

38. (Currently amended) A presence-based seamless messaging method, comprising:

detecting, from within a computing environment executing on a processor prior to sending a message via a first communications medium, a presence of a potential message recipient who can be reached via a second communications medium;

presenting a user interface for selecting at least part of an unsent message from a message composition environment associated with the first communications medium; and

automatically invoking the second communications medium in response to the detecting, wherein the selected part of the unsent message is transferred to a message composition environment associated with the second communications medium; and

wherein the user interface includes a one-click control option displayed when the potential message recipient is present in the second communication medium and removed when the potential message recipient is non-present in the second communication medium, the one-click control option configured to select the second communication medium and

wherein when the potential message recipient becomes non-present in the second communications medium during message composition, upon actuation of the one-click control option, automatically transferring at least a part of the unsent message into a message composition environment associated with the first communications medium.

39. (Original) The method as recited in claim 38, further comprising offering a menu of presence-based communications options whenever text is selected using the user interface for selecting at least part of an unsent message.

REASONS FOR ALLOWANCE

The following is the examiner's statement of reasons for allowance:

The examiner concurs with the previously stated allowable subject matter made in the non-final action of 1/5/09.

The prior art does not teach the cited limitation.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

CORRESPONDANCE INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin R. Bruckart whose telephone number is (571) 272-3982. The examiner can normally be reached on 9:00-5:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Pwu can be reached on (571) 272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin R Bruckart
Examiner
Art Unit 2446

/Benjamin R Bruckart/
Primary Examiner, Art Unit 2446